

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRIS TEMPLETON,

Plaintiff,

v.

THE BISHOP OF CHARLESTON, a
Corporation Sole,

Defendant.

NO. 2:20-cv-01578-MJP

DEFENDANT'S REPLY IN SUPPORT OF
MOTION TO QUASH DEPOSITION
SUBPOENA AND SUBPOENA FOR
PRODUCTION OF DOCUMENTS

**Noted for Consideration:
October 30, 2020**

Defendant submits this reply in support of its Motion to Quash the subpoena for deposition testimony and production of documents that was served on Fr. Tim Watters. As before, Fr. Watters has no information regarding Templeton's claims, nor any information regarding the accused priest, Fr. Raymond DuMouchel. Likewise, Fr. Watters has no information regarding the priest of the Diocese of Savannah, Georgia, Wayland Yoder Brown. Fr. Watters has no documents that are responsive to the subpoena. (See Declaration of Fr. Tim Watters.) In short, Fr. Watters will not be able to testify regarding any fact that is relevant to

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Templeton's claims or allegations that he was molested by Fr. Raymond DuMouchel – who died in 2006. Rather, as Templeton's brief crystallizes – counsel desires to question Fr. Watters about alleged internal non-public discussions that may have occurred in the early 1980s between the Bishop (who himself died in 1993)¹ and the Judicial Vicar of the Diocese and a member of the Bishop's *curia*.

The Diocese has not waived the First Amendment protections afforded to the internal deliberative process of the Bishop and his advisors.² As the Fourth Circuit held in *Rayburn v. Gen. Conf. of Seventh-Day Adventists*³, the Establishment Clause insulates matters of church administration and government from interference and manipulation by civil courts – and this includes the discovery process.⁴ The First Amendment bars civil courts from becoming entangled with religion by “probing the mind of the church.” Thus Fr. Watters' consultations with his Bishop on matters that were important to the Church are not properly the subject of discovery.

The Supreme Court has repeatedly granted religious organizations broad protections

¹ It should be noted that the late-Bishop Ernest Unterkoefler was initially named as a defendant “in his official capacity.” The District Court dismissed him on the Diocese's Rule 12(b)(6) motion.

² Templeton's reliance on Pope Francis' 2019 decree *Vos Estis Lux Mundi* as constituting a blanket waiver of First Amendment freedoms and assertions of privilege is woefully misplaced, and that is not what the document says at all. Nevertheless, civil courts may not entangle themselves in Church affairs by imposing their own interpretation to canonical documents.

³ *Rayburn*, 772 F.2d 1164 (4th Cir. 1985). See also *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (2012); *EEOC v. Catholic Univ. of Amer.*, 83 F.3d 455 (D.C.Cir. 1996); *Phillips v. Marist Soc'y*, 80 F.3d 274 (8th Cir. 1996)(First Amendment prohibits secular courts from interpreting canon law and intruding on ecclesiastical affairs).

1 against government infringement of their religious liberties and prohibiting coercive government
 2 entanglement in matters of ecclesiastical governance.⁵ Among these inviolable liberties are the
 3 right of an organization to control its governance and administration.⁶ Internal church
 4 deliberations and decision-making – including the deliberations of a bishop and his advisors –
 5 are protected under the First Amendment.⁷ The very process of inquiry into the internal
 6 deliberations of a church violates the Constitution.⁸

7 Additionally, Fr. Watters is a canon lawyer – he has advanced degrees in canon law and
 8 holds a *Juris Canonici Licentiate*. Any canon lawyer must have completed the degree program
 9 and curriculum determined by the Vatican (a sovereign nation) at an institution approved by the
 10 Vatican. The Tribunal over which the Judicial Vicar presides is the ecclesiastical court of the
 11 Diocese and provides canonical legal advice to the Bishop. The Judicial Vicar oversees matters
 12 of ecclesiastical discipline and advises the Bishop on disciplinary matters. The Catholic canon
 13 law system is the oldest functioning legal system in the Western World dating back centuries.
 14 Both the common law tradition of attorney-client privilege and South Carolina Code § 19-11-90
 15 afford protection for communications such as those between deceased Bishop Unterkoefler and
 16 his Judicial Vicar, Fr. Watters.

17 ⁵ See *Watson v. Jones*, 13 Wall. 670, 727 (1872); *Serbian Eastern Orthodox Diocese v.*
 18 *Milivojevich*, 426 U.S. 696 (1976); *Kedroff v. St. Nicholas Cathedral of Russian Orthodox*
Church in N. Am., 344 U.S. 94, 119 (1952).

19 ⁶ *Serbian Eastern Orthodox Diocese* 426 U.S. at 698, 721; *Hosanna-Tabor*, 565 U.S. at 171.
 20 See also *Cannata v. Catholic Diocese of Austin* 700 F.3d 169, 172 (5th Cir. 2012)(Church
 autonomy protects the ability of religious organizations to govern themselves free from state
 interference).

21 ⁷ See e.g. *Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 658 (10th Cir. 2002).

⁸ *Little v. Wuerl*, 929 F.2d 944, 949 (3d Cir. 1991)

Bishops frequently rely on their Judicial Vicars for advice on canonical and ecclesiastical matters. The Judicial Vicar is also tasked with keeping abreast of developments in canon law and advising the Bishop on matters of church government. Additionally, the *curia* on which Fr. Watters sat, is the circle of close advisors to the Bishop on matters affecting governance and operations of the Diocese on a broad spectrum of matters that are important to the Church.

Unaddressed by Templeton's brief is the fact that Fr. Watters is subject to a very broad agreement of confidentiality. The agreement likely will preclude testimony by him regarding the information sought by the plaintiff.

For the foregoing reasons, Plaintiff Templeton's subpoena for deposition testimony and production of documents should be quashed, and Plaintiff should be prohibited from obtaining any such testimony.

DATED this 30th day of October, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of October, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system when will send notification of such filing to the following:

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I hereby certify that on the 30th day of October, I sent via electronic mail the foregoing document to the following non CM/ECF participants:

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